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PERMIT

FORESTRY OPERATIONS PERMIT AMENDMENT A to FOP 929

The staff of the Maine Land Use Planning Commission, after reviewing the application and supporting documents submitted by Weyerhaeuser for Forestry Operations Permit Amendment A to FOP 929, finds the following facts:

1. Applicant/Agent: Weyerhaeuser
Attn: Steve Pollis
PO Box 297
Greenville Jct., Maine 04442
2. Date of Complete Application: May 17, 2016
3. Location of Proposal: Long Pond Twp., Somerset County
Plan 01, Part of Lots 13 & 17
4. Zoning: (D-MH-RS1) Residential Development Subdistrict
5. Approximate Dates for Operation: June, 2016 to June, 2018

Proposal

6. The applicant proposes to harvest timber on approximately 276 acres of a 912 acre site in Long Pond Twp. The site is located within the Concept Plan for the Moosehead Lake Region, identified as the Long Pond Development Area, Southeast Shore Sub-Area designated as a Residential Development Zone D-MH-RS1. This development area is currently undeveloped, but may be developed with up to 55 residential units.¹ The proposed timber harvest area is broken into three distinct sections: Block #1 is 70, Block #2 is 10 acres and Block #3 is 196 acres. The applicant proposes to harvest approximately 70% of the merchantable volume within 237 acres, protecting a majority of the understory in that area. Approximately 40-70% of the merchantable volume would be harvested

¹ The number of units approved in all Development Areas during the 30-year term of this Concept Plan shall not exceed 2,025 ("total unit cap"). The Beaver Cove, Moose Bay, Rockwood/Blue Ridge and Route 6/15 Corridor Development Areas do not have unit sub-caps ("uncapped development areas"). Thus, the number of units may fluctuate among these uncapped development areas, and units from other development areas may be transferred to these uncapped development areas, as long as the total unit cap is not exceeded. Concept Plan for the Moosehead Region, Sub-Chapter IV, SUPPLEMENTAL REVIEW PROCESSES AND REQUIREMENTS, 10.28, B. Limitations on Numbers of Units.

from the remaining 39 acres. The bulk of the harvest would be prescribed as a modified overstory removal, consisting of both financially and biologically mature stems. This would remove the merchantable overstory and release the vigorously growing understory. All merchantable timber would be cut except hemlock, cedar and white pine. The remaining acres would be thinned and clear cut. The stand that would be thinned consists of mature tolerant hardwoods, with scattered mature spruce and fir in the overstory. Thinning would target mature stems, including spruce and fir. The clear cut stand consists of a mature hardwood overstory that had previous shelter wood harvest 12 years ago. The understory has a high percentage of unacceptable stripped maple regeneration. The clear cut will remove the merchantable timber except the hemlock, cedar and white pine. Acceptable growing stock for regeneration would be protected as much as possible. Multiple streams and wetlands have been identified in the area and those would be protected through buffers. The applicant recognizes that there are potential risks associated with a timber harvest in a D-MH-RS1 zone that could compromise future development opportunities due to the clearing standards required by the Concept Plan. The applicant proposes to utilize advanced harvest planning and layout efforts to avoid creating any clearings that would compromise future development. The applicant intends to allow limited timber harvesting to achieve the goal of creating healthier forest structure for the long term.

7. The proposed timber harvest would be set back 100 to 250 feet from the nearest public road, Route 6/15. The applicant proposes to leave the vegetation intact within the road setback to screen the harvest area from the public road. There are no populated areas in the vicinity of the harvest area. There is no proposed timber harvesting within 250 feet of the normal high water mark of Long Pond. The applicant contends that there would be no adverse impacts on any known recreational activities in the vicinity of the harvest area.
8. The operation is planned as a summer harvest conducted by a mechanized logging system. The entire harvest is expected to take two years to complete within the above referenced dates for operation.
9. Based on the application, the terrain within the proposed harvest area consists of a moderately well drained loamy soils group. The overall moderately drained area has a gentle slope ranging from 1- less than 10%. Excessively wet soils would be avoided. The applicant found no soils/drainage issues that would impact timber harvesting.
10. The applicant proposes to utilize landing areas that would not be visible from Route 6/15 where logs and pulp would be decked and loaded onto trucks. The access skid trails into the harvest area from these landing areas would be designed to minimize visual impacts towards the harvest area by placing an "S" curve in the trail at the access point located at the corner or side of the landing area.

Review Criteria

11. Under provisions of Section 10.21,K,3,d(5) of the Concept Plan for the Moosehead Lake Region, timber harvesting may be allowed within a Residential Development Zone (D-MH-RS1) as a special exception upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. 685-A(10), and subject to the terms, conditions and provisions of the Concept Plan, including all applicable requirements of the LUPC amendable provisions, provided that the applicant shows by substantial evidence that (a) the use can be buffered from those uses within the vicinity or area likely to be affected by the proposal with which it is or may be incompatible; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the terms, conditions and provisions of this Concept Plan and the policies of the Comprehensive Land Use Plan.

12. Under the provisions of Section 10.27,E, of the Commission's Land Use Districts and Standards, timber harvesting not in conformance with the standards of this section may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the sub-district involved. An applicant for such a permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of this section, shall be conducted in a manner which produces no undue adverse impact upon the resource and use in the area.
13. Under provisions of Section 10.25,E,1,B(2) Vegetation Clearing Activities of the Concept Plan for the Moosehead Lake Region, the requirements of Section 10.25,E,1,C through E shall apply to all vegetation clearing activities [including timber harvesting activities] that are (a) located within 5 miles (horizontal distance) of one or more public vantage points and (b) associated with structures, facilities and uses identified in sub-section B(1), above including but not limited to vegetation clearing for the purpose of opening a view from a structure, vegetation clearing for preview clearings, and vegetation clearing for purposes associated with residences such as lawns, yards, play areas, and gardens.

Vegetation Clearing activities shall be allowed only upon issuance of a permit from the Commission and shall be conducted in accordance with Section II, Sub-Chapter IV, 10.31 and the terms and conditions of permits issued by the Commission, except that vegetation clearing activities associated with surveys or other resource analysis necessary for the preparation of permit applications shall be allowed without a permit as long as such preparatory vegetation clearing is not of a nature that would compromise the ability of future development to comply with the requirements of Section 10.25,E,C through E.

14. Under provisions of Section 10.31 Procedures for Evaluating and Conducting Vegetation Clearing Activities of the Concept Plan for the Moosehead Lake Region, the purpose for this Section establishes (1) the minimum information that must be submitted by an applicant as part of any subdivision or development permit application for structures, facilities and uses that must comply with the standards for vegetation clearing activities outside shoreland and roadway buffer areas (Section II, Sub-Chapter, 10.25,E,1,D) in order for the Commission to evaluate the proposal for consistency with these standards; and (2) the procedures that must be followed for any such vegetation clearing activities.

Review Comments

15. The Maine Forest Service has reviewed this application and has no concerns with the applicant's proposal provided the applicant maintains adequate buffers to all streams and applicable wetlands and does abide by all standards as specified within the Forest Practices Act.
16. The Division of Inland Fisheries and Wildlife had reviewed the original application and had no concerns with the timber harvesting as proposed in this area.

Discussion

17. Timber harvesting is an allowed use in the D-MH-RS1 by special exception pursuant to section 10.21,K,3,d of the Concept Plan. There is nothing in the Concept Plan that prohibits timber harvesting activities in a D-MH-RS1 zone or that requires any special documentation of the pre-

harvest conditions. However, sections 10.25,E,1 and 10.31 set up a process and criteria for vegetative clearing activities applicable to structures, facilities and uses that are located within five miles (horizontal distance) of one or more public vantage points. Any future development within the D-MH-RS1 zone that is located within five miles of a public vantage point will need to meet the provisions of 10.25,E,1 and 10.31. The ability for those areas to meet the vegetated clearing standards may be affected by any timber harvest operations that precede any development.

The application provides sufficient information to show the proposed location of the timber harvest in the D-MH-RS1. The application also indicates the harvest "has been designed to specifically address any potential future clearing standard issues" and that "it is recognized that there are potential risks associated with a timber harvest in a D-MH-RS1 zone that could compromise future development opportunities due to clearing standard requirements" and that "advanced harvest planning and layout efforts have specifically addressed this issue."

If development is proposed in the future for the Long Pond Development Area, Southeast Shore Sub-Area, it will need to meet all applicable vegetation clearing requirements of Section 10.25,E,1,C through E. These include:

- C. Vegetation Clearing Activities Within Shoreland and Roadway Buffer Areas
- D. Vegetation Clearing Activities Outside Shoreland and Roadway Buffer Areas
- E. Replacement of Removed Vegetation

The timber harvest should not compromise the ability of future development to comply with these specific criteria and may not be a basis for a waiver to the vegetation clearing standards.

By way of example, but not by limitation, section 10.25,E,1,D.(2)(a)(ii) of the Concept Plan (Waivers to Façades, Silhouetted Perimeters and/or Cleared Opening Standards due to Visual Obstructions or Elevation Differences) may allow a waiver when development is proposed "to be located at such a lower elevation than the public vantage points from which it could be viewed that existing vegetation conditions cannot meaningfully screen the views from these elevated public vantage points (emphasis added)." The existing vegetation conditions, for purposes of evaluating this standard, should not be those that exist as a result of timber harvesting that has occurred since the Concept Plan went into effect. In other words, the proposed timber harvest should not serve to later suggest, for purposes of obtaining a waiver, that "existing vegetation conditions cannot meaningfully screen the views."

Likewise, by way of example, but not by limitation, section 10.25,E,1,D.(2)(b)(iv) of the Concept Plan (Waivers to Façades and/or Silhouetted Perimeters Standards) may allow a waiver when development is "located, designed and landscaped so as to comply with the vegetation clearing standards of Section 10.25,E,1,D.(1),(a)(b) to the greatest extent practicable (emphasis added)." The conditions created by the proposed timber harvest should not serve to later suggest, for purposes of obtaining a waiver, that the vegetation clearing standards of Section 10.25,E,1,D.(1),(a)(b) have been met "to the greatest extent practicable" if in fact they could have been more fully met but for the timber harvesting.

Conclusion

18. Timber harvesting is an allowed use in the D-MH-RS1 by special exception. Nothing in the Concept Plan requires any special documentation of the pre-harvest conditions. Any future development within the D-MH-RS1 zone will need to meet the provisions of 10.25,E,1 and 10.31 which set up a process and criteria for vegetative clearing activities applicable to structures, facilities and uses that are located within five miles of public vantage points. The ability for those areas to meet the

vegetated clearing standards may be affected by any timber harvest operations that precede any development. The timber harvest should not compromise the ability of future development to comply with these specific criteria and may not be a basis for a waiver to the vegetation clearing standards.

19. The facts are otherwise as represented in Forestry Operations Permit Application Amendment A to FOP 929 and supporting documents.

Based upon the above Findings, the staff concludes that, if carried out in compliance with the Conditions below, the proposal will meet the Criteria for Approval, Section 685-B(4) of the Commission's Statutes, 12 M.R.S.A.

Therefore, the staff approves the application of Weyerhaeuser with the following conditions:

1. This permit is limited to the proposal as set forth in the application and as modified by the conditions of approval. All changes must be reviewed and approved by the Commission. Any variance from the application or the conditions of approval undertaken without review and approval of the Commission constitutes a violation of the Land Use Planning Commission law.
2. All future development must comply with the Concept Plan's criteria for Scenic Character and Vegetative Clearing Activities. There are potential risks associated with this timber harvest in an undeveloped D-MH-RS1 zone that could compromise future development opportunities due to clearing standard requirements. The Commission's staff decision to conditionally approve the proposed timber harvest does not waive the Commission's right or ability to limit any future development that does not comply with all applicable standards of the Commission's Land Use Districts and Standards and/or the Concept Plan for the Moosehead Lake Region. This timber harvest shall not be a basis for a waiver to the vegetation clearing standards.
3. The recipient of this permit must secure and comply with all applicable licenses, permits and authorizations of all federal, state and local agencies, with particular regard to the water pollution regulations of the Maine Department of Environmental Protection, the Maine Department of Inland Fisheries and Wildlife and the Maine Forest Service.
4. The Commission or its authorized representatives may inspect the operation during and upon completion of activities to assure compliance with the provisions of this permit.
5. The recipient of this permit shall designate a person experienced in Forestry who is responsible for seeing that the operation is properly conducted in accordance to these conditions of approval, and who may be contacted by the Commission with regard to inspection of the operation.
6. The area of the project covered by this permit must be kept free of litter, trash, junk cars, and any other obvious eyesores or unsanitary deposits.
7. The permittee shall comply with the Standards for Timber Harvesting, Sections 10.27,E of the Commission's Land Use Districts and Standards, a copy of which is attached, unless more restrictive requirements apply.
8. All operations shall be stopped where the continuation of such operations will cause or contribute to the occurrence of erosion or the sedimentation of surface waters, whether such occurrence is precipitated by exceptionally wet weather, the failure of water control measures, or other factors. Adequate steps must be taken immediately to stop any erosion or sedimentation of surface waters

and to correct the situation which led to such occurrence. For the purposes of this action erosion is defined as evidence of rill or gully erosion.

9. Except as specifically allowed by this permit, the permittee shall comply with all of the Commission's Standards.
10. Twitch trails or skid trails shall be located and designed to maximize use of the water control and erosion and sedimentation prevention measures described for skid roads in all cases where it may reasonably be anticipated that use of the trail will result in the creation of a skid trail. Slash and vegetative debris shall be placed in all twitch trails and skid trails to retard runoff and improve erosion control unless chipped and replanted or seeded.

In all cases where twitch trails or skid trails become skid roads (where the trail is used enough to expose significant areas of mineral soil) all practicable water control measures shall be immediately implemented including strict adherence to the provisions of the permittee's proposals which call for water bars and seeding.

11. Skid roads shall be constructed using the following specifications for water control measures, including culverts, dips, water turnouts, and water bars:

<u>Slope</u>	<u>Spacing</u>
0 - 2%	500 - 300 feet
3 - 5%	250 - 180 feet
6 - 10%	167 - 140 feet
11 - 15%	136 - 127 feet
16 - 20%	125 - 120 feet
21%+	100 feet

Water control measures shall be spaced at shorter intervals than specified above if necessary in order to avoid accelerated erosion or sedimentation of surface waters.

12. Upon completion of use of skid roads, water bars shall be properly installed according to the following slope requirements:

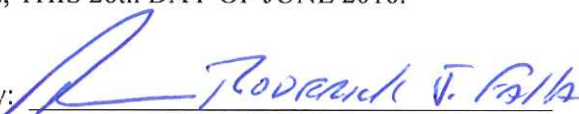
<u>Skid Trail Slope</u>	<u>Spacing</u>
0 - 2%	250 feet
3 - 5%	200 - 135 feet
6 - 10%	100 - 80 feet
11 - 15%	80 - 60 feet
16 - 20%	60 - 45 feet
21%+	40 feet

13. Additional water bars shall be located approximately 50 feet above, and at the bottom of sections of such trails which exceed 25 percent in slope for a distance of 100 feet or more.
14. Upon completion of construction and use, all skid trails having exposed mineral soils on slopes greater than 5 percent within the D-MH-RS1 zone shall be seeded.
15. If water control measures beyond those specified herein prove to be necessary in order to reasonably avoid accelerated erosion or sedimentation of surface waters, such additional measures must be employed.

16. Harvesting operations shall only occur during dry or frozen ground conditions.
17. Harvesting operations and land management roads shall utilize the currently existing roads to the greatest possible extent.
18. An undisturbed / uncut 50 foot wide vegetated screening buffer must be maintained from the boundary of the R.O.W. for Route 6/15 and along all public road ways located within the D-MH-RS1 sub-district.
19. Permittee shall abide by all standards as specified within the Forest Practices Act.
20. The period of operations shall be from June, 2016 to June, 2018.

This permit is approved only upon the above stated conditions and remains valid only if the permittee complies with all of these conditions. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT GREENVILLE, MAINE, THIS 26th DAY OF JUNE 2016.

By: 
for Nicholas D. Livesay, Executive Director